

**REMARKS**

Applicant submits this Reply in response to the non-final Office Action mailed September 8, 2010. Claims 1-26 are pending in this application, of which claims 10, 12, 13, and 15-26 have been withdrawn from consideration. Thus, claims 1-9, 11, and 14 are submitted for examination on the merits, of which claim 1 is the sole independent claim. By this Reply, Applicant has amended claim 1. No new matter has been added.

In the Office Action, the Examiner rejected claims 1 and 8 under 35 U.S.C. § 102(b) as being anticipated by GB 2,033,881 ("Harris"); rejected claims 1-5, 8, 11, and 14 under 35 U.S.C. § 103(a) as being unpatentable over Harris in view of U.S. Pat. No. 6,817,474 ("Ikeda"); rejected claims 6 and 7 under 35 U.S.C. § 103(a) as being unpatentable over Harris in view of Ikeda, and further in view of U.S. Pat. No. 6,540,088 ("Oder"); and rejected claim 9 under 35 U.S.C. § 103(a) as being unpatentable over Harris in view of Ikeda, and further in view of U.S. Pat. No. 4,631,124 ("Paulson").

Applicant respectfully traverses all pending rejections for at least the reasons discussed below.

**Rejections Under 35 U.S.C. § 102**

Applicant respectfully traverses the rejection of claims 1 and 8 under 35 U.S.C. § 102(b) as being anticipated by Harris. In order to properly establish that Harris anticipates Applicant's claimed invention under 35 U.S.C. § 102, every element of the claims in issue must be found, either expressly or described under principles of inherency, in that single reference. Furthermore, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claim." See M.P.E.P. § 2131,

quoting *Richardson v. Suzuki Motor Co.*, 868 F.2d 1126, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989).

Harris fails to disclose every element of Applicant's claims. Amended independent claim 1 recites, in part, "after the removing of a portion of the loose particles, including fines and contaminants, detecting in the batch the defective pellets and additional loose contaminants using a mechanical sorting device . . . ." Support for the amendment to independent claim 1 can be found in Applicant's specification at least at page 11, paragraph [045]. Harris nowhere appears to disclose such features.

The Office Action asserts, "Harris teaches a method for cleaning a batch of granular materials comprising . . . after the removing of a portion of the loose particles including fines and contaminants, detecting in the batch the defective pellets and additional loose contaminants . . . ." Office Action at 2. However, even assuming, *arguendo*, that the Office Action's characterization of Harris is accurate, the step of "detecting in the batch the defective pellets and additional loose contaminants" described in Harris is performed using an optical scanner. Harris at p. 1, l. 127-p. 2, l. 2.

Applicant's specification describes potential flaws with such an optical inspection. At page 5, paragraph [019], Applicant's specification explains:

In conventional sorting machines, the step of sorting defective pellets often occurs based on a comparison of their external appearance with a predetermined criteria using a light beam. Sorting based on the external appearance has some limitations, however, because accurate detection must be evenly carried out over the entire pellet. If defects exist inside a pellet due, for example, to an air bubble, then a sorting process limited to external criteria may not be thorough. Also, shadows and reflections from the light beam may be erroneously construed as defects in the external appearance.

Thus, not only does Harris fail to disclose, "after the removing of a portion of the loose particles, including fines and contaminants, detecting in the batch the defective pellets and additional loose contaminants using a mechanical sorting device," as recited in amended independent claim 1, but the use of an optical scanner described in Harris may be inferior to the use of "a mechanical sorting device" for detecting defective pellets and additional loose contaminants.

Accordingly, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of amended independent claim 1 based on Harris under 35 U.S.C. § 102. Moreover, claim 8 depends from independent claim 1, and thus, contains all the elements and limitations thereof. As a result, dependent claim 8 is allowable at least due to its corresponding dependence from independent claim 1.

#### **Rejections Under 35 U.S.C. § 103(a)**

Applying 35 U.S.C. § 103(a), the Examiner rejected claims 1-5, 8, 11, and 14 as being unpatentable over Harris in view of Ikeda; rejected claims 6 and 7 as being unpatentable over Harris in view of Ikeda, and further in view of Oder; and rejected claim 9 as being unpatentable over Harris in view of Ikeda, and further in view of Paulson. However, a *prima facie* case of obviousness, the requirements of which are discussed below, has not been established for each rejected claim for at least the following reasons.

To establish a *prima facie* case of obviousness, the prior art reference (or references when combined) must disclose all of the claim limitations, or the claim rejection must explain why the differences between the prior art and the claim limitations would have been obvious to one of ordinary skill in the art. See M.P.E.P. § 2141.

A *prima facie* case of obviousness has not been established because, among other things, none of Harris, Ikeda, Oder, or Paulson, alone or in any combination, teaches or renders obvious every feature of Applicant's amended claims. Applicant has already established in the previous section that Harris fails to teach a method including at least, "after the removing of a portion of the loose particles, including fines and contaminants, detecting in the batch the defective pellets and additional loose contaminants using a mechanical sorting device," as recited in amended independent claim 1. The Examiner's additional citation of Ikeda, Oder, and Paulson fails to cure at least this deficiency of Harris, as Ikeda, Oder, and Paulson similarly fail to teach or render obvious, "detecting in the batch the defective pellets and additional loose contaminants using a mechanical sorting device . . . ."

Accordingly, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of amended independent claim 1 under 35 U.S.C. § 103(a) based on Harris and Ikeda. Moreover, claims 2-9, 11, and 14 each depend from independent claim 1, and thus, contain all the elements and limitations thereof. As a result, Applicant similarly requests that the Examiner reconsider and withdraw the rejection of claims 2-9, 11, and 14 under 35 U.S.C. § 103(a) based on Harris, in combination with one or more of Ikeda, Oder, and Paulson.

In addition, withdrawn claims 10, 12, 13, and 15 depend from allowable independent claim 1. Thus, claims 10, 12, 13, and 15 should be allowable for at least the same reasons as independent claim 1. Therefore, Applicant respectfully requests rejoinder and allowance of claims 10, 12, 13, and 15.

**Claim Scope**

It is to be understood that Applicant is in no way intending to limit the scope of the claims to any exemplary embodiments described in the specification or abstract and/or shown in the drawings. Rather, Applicant believes that he is entitled to have the claims interpreted broadly, to the maximum extent permitted by statute, regulation, and applicable case law.

**CONCLUSION**

In view of the foregoing, Applicant respectfully requests reconsideration and reexamination of this application, and the timely allowance of the pending claims.

If the Examiner believes that a telephone conversation might advance prosecution of this application, the Examiner is cordially invited to call Applicant's undersigned attorney at (404) 653-6435.

Applicant respectfully notes that the Office Action contains a number of assertions concerning the related art and the claims. Regardless of whether those assertions are addressed specifically herein, Applicant respectfully declines to automatically subscribe to them.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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